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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

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LARRY WAYNE RICHARD,

Plaintiff,

*versus*

DONALD R. KELLY, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:12-CV-294

**MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND  
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Larry Wayne Richard, an inmate confined at the Estelle Unit, proceeding *pro se*, brought this lawsuit against prison officials pursuant to 42 U.S.C. § 1983.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends plaintiff's motion for default judgment against the defendants (#77) be denied.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the court concludes plaintiff's objections are without merit and should be overruled. As set forth in the report, defendant Dennis has answered plaintiff's complaint, and proper service has not been obtained against the remaining defendants. Thus, default judgment is not proper in this case.

**O R D E R**

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. It is

**ORDERED** that plaintiff's motion for default judgment is **DENIED**.

SIGNED at Beaumont, Texas, this 11th day of March, 2014.

*Marcia A. Crone*

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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE